

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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VICTORIA MALONE,

Plaintiff,

-against-

THE TOWN OF CLARKSTOWN, WAYNE  
BALLARD, in his personal and official capacity as  
Clarkstown Highway Superintendent, FRANK  
DIZENZO, in his personal and official capacity as  
Clarkstown Highway Superintendent, ANDREW  
LAWRENCE, in his personal and official capacity,  
DAVID SALVO, in his personal and official  
capacity, ROBERT KLEIN, in his personal and  
official capacity, TUCKER CONNINGTON, in his  
personal and official capacity, and BRIAN LILLO,  
in his personal and official capacity,

Defendants.

USPC SDNY
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Docket No.  
19-CV-05503 (VB)

~~PROPOSED~~  
REVISED CIVIL CASE  
DISCOVERY PLAN AND  
SCHEDULING ORDER

This Civil Case Discovery Plan and Scheduling Order is adopted, after consultation with counsel and any unrepresented parties, pursuant to Fed. R. Civ. P. 16 and 26(f):

1. All parties do not consent to conducting all further proceedings before a Magistrate Judge, including motions and trial, pursuant to 28 U.S.C. § 636(c). The parties are free to withhold consent without adverse substantive consequences. (If all parties consent, the remaining paragraphs of this form need not be completed.)
2. This case is to be tried to a jury.
3. Amended pleadings may not be filed and additional parties may not be joined except with leave of the Court. Any motion to amend or to join additional parties shall be filed by November 22, 2019. (Absent exceptional circumstances, 30 days from date of this Order.)

4. Initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1) shall be completed by November 6, 2019. (Absent exceptional circumstances, 14 days from date of this Order.)
5. Fact Discovery
  - a. All fact discovery shall be completed by May 20, 2020. (Absent exceptional circumstances, a period not to exceed 120 days from date of this Order.)
  - b. Initial requests for production of documents shall be served by November 16, 2019.  
Subsequent requests for the production of documents may be served at a later date, but no later than April 17, 2020.
  - c. Interrogatories shall be served by April 17, 2020.
  - d. Non-expert depositions shall be completed by May 20, 2020.
  - e. Requests to admit shall be served by April 17, 2020.
  - f. Any of the interim deadlines in paragraphs 5(b) through 5(e) may be extended by the written consent of all parties without application to the Court, provided that all fact discovery is completed by the date set forth in paragraph 5(a).
6. Expert Discovery
  - a. All expert discovery, including expert depositions, shall be completed by July 20, 2020 (Absent exceptional circumstances, 45 days from date in paragraph 5(a); i.e., the completion of all fact discovery.)
  - b. Plaintiff's expert disclosures pursuant to Fed. R. Civ. P. 26(a)(2) shall be made by May 21, 2020.
  - c. Defendant's expert disclosures pursuant to Fed. R. Civ. P. 26(a)(2) shall be made by June 18, 2020.
  - d. The interim deadlines in paragraphs 6(b) and 6(c) may be extended by the written consent of all parties without application to the Court, provided that all expert discovery is completed by the date set forth in paragraph 6(a).
7. Additional provisions agreed upon by the parties are attached hereto and made a part hereof.

8. **ALL DISCOVERY SHALL BE COMPLETED BY July 20, 2020.**  
(Absent exceptional circumstances, a period not to exceed 6 months from date of this Order.)
9. All motions and applications shall be governed by the Court's Individual Practices, including the requirement of a pre-motion conference before a motion for summary judgment is filed.
10. Unless otherwise ordered by the Court, within 30 days after the date for the completion of discovery, or, if a dispositive motion has been filed, within 30 days after a decision on the motion, the parties shall submit to the Court for its approval a Joint Pretrial Order prepared in accordance with the Court's Individual Practices. The parties shall also comply with the Court's Individual Practices with respect to the filing of other required pretrial documents.
11. The parties have conferred and their present best estimate of the length of the trial is five to seven days.
12. This Civil Case Discovery Plan and Scheduling Order may not be modified or the dates herein extended without leave of the Court or the assigned Magistrate Judge acting under a specific order of reference (except as provided in paragraphs 5(f) and 6(d) above).
13. The Magistrate Judge assigned to this case is the Honorable Paul E. Davison.
14. If, after the entry of this Order, the parties consent to trial before a Magistrate Judge, the Magistrate Judge will schedule a date certain for trial and will, if necessary, amend this Order consistent therewith.
15. The next case management conference is scheduled for July 21, 2020 at 10:30 a.m. 2:30 p.m.<sup>16</sup>
16. By 1/21/2020, counsel shall submit a joint letter regarding settlement.

Dated: January 14, 2020  
White Plains, NY

SO ORDERED:



Vincent L. Briccetti, U.S.O.J.